IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

Bail Appl..No. 6711 of 2007()

CRIME NO.196/06 OF THE KASARAGOD POLICE STATION

PETITIONER: ACCUSED:

ANWAR SADATH @ ANNU,
S/O.MOHAMMED KUNHI, THASLIMA COTTAGE,
PALLIKKAL, THALANGARA, KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY SHO
KASARAGOD POLICE STATION, REPRESENTED BY
PUBLIC PROSECUTOR, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6711 OF 2007

Dated this the 5th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations for offences punishable, inter alia, under Secs.326 and 308 read with Sec.149 of the IPC. The petitioner is the 3rd accused. Altogether, there are 5 accused persons. The petitioner has not been arrested so far. Investigation is now complete. Final report has already been filed. Committal proceeding has been registered by the learned Magistrate. The petitioner has not entered appearance so far. The learned Magistrate has issued coercive process against the petitioner. The petitioner finds such warrant of arrest issued by the learned Magistrate chasing him.

2. According to the learned counsel for the petitioner, the petitioner is absolutely innocent. His absence earlier was

not wilful or deliberate. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior

notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge